

RBS and RUS, USDA

§ 4284.501

§ 4279.187 Refusal to execute Loan Note Guarantee.

If the Agency determines that it cannot execute the Loan Note Guarantee, the Agency will promptly inform the lender of the reasons and give the lender a reasonable period within which to satisfy the objections. If the lender requests additional time in writing and within the period allowed, the Agency may grant the request. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

§§ 4279.188–4279.199 [Reserved]

§ 4279.200 OMB control number.

The information collection requirements contained in this regulation have been approved by OMB and have been assigned OMB control number 0575–0170. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 54 hours per response, with an average of 27 hours per response, including time for reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Stop 7630, Washington, DC 20250. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

PART 4284—GRANTS

Subparts A–E [Reserved]

Subpart F—Rural Cooperative Development Grants

Sec.

- 4284.501 Purpose.
- 4284.502 Policy.
- 4284.503 [Reserved]
- 4284.504 Definitions.
- 4284.505 Applicant eligibility.
- 4284.506–4284.514 [Reserved]
- 4284.515 Grant purposes.
- 4284.516 Ineligible grant purposes.
- 4284.517–4284.526 [Reserved]
- 4284.527 Other considerations.
- 4284.528 Application processing.
- 4284.529–4284.539 [Reserved]
- 4284.540 Grant selection criteria.

4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.

4284.542–4284.556 [Reserved]

4284.557 Fund disbursement.

4284.558 Reporting.

4284.559–4284.570 [Reserved]

4284.571 Audit requirements.

4284.572 Grant servicing.

4284.573 Programmatic changes.

4284.574 Subsequent grants.

4284.575 Grant suspension, termination, and cancellation.

4284.576–4284.586 [Reserved]

4284.587 Exception authority.

4284.588–4284.599 [Reserved]

4284.600 OMB control number.

Subpart G—Rural Business Opportunity Grants

4284.601 Purpose.

4284.602 Policy.

4284.603 Definitions.

4284.604–4284.619 [Reserved]

4284.620 Applicant eligibility.

4284.621 Eligible grant purposes.

4284.622–4284.628 [Reserved]

4284.629 Ineligible grant purposes.

4284.630 Other considerations.

4284.631–4284.637 [Reserved]

4284.638 Application processing.

4284.639 Grant selection criteria.

4284.640 Appeals.

4284.641–4284.646 [Reserved]

4284.647 Grant approval and obligation of funds.

4284.648 Fund disbursement.

4284.649–4284.655 [Reserved]

4284.656 Reporting.

4284.657 Audit requirements.

4284.658–4284.666 [Reserved]

4284.667 Grant servicing.

4284.668 Programmatic changes.

4284.669–4284.683 [Reserved]

4284.684 Exception authority.

4284.685–4284.698 [Reserved]

4284.699 Member delegate clause.

4284.700 OMB control number.

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Subparts A–E [Reserved]

Subpart F—Rural Cooperative Development Grants

§ 4284.501 Purpose.

(a) This subpart outlines the Rural Business-Cooperative Service's (RBS) policies and authorizations and contains procedures to provide grants for

§ 4284.502

cooperative development in rural areas.

(b) Grants will be made available to nonprofit corporations and institutions of higher education for the purpose of establishing and operating centers for rural cooperative development.

(c) Copies of all forms and Instructions referenced in this subpart are available in the RBS National Office or any Rural Development State Office.

§ 4284.502 Policy.

The grant program will be used to facilitate the creation or retention of jobs in rural areas through the development of new rural cooperatives, value-added processing, and rural businesses.

§ 4284.503 [Reserved]

§ 4284.504 Definitions.

Agency—Rural Business-Cooperative Service (RBS) or a successor agency.

Approval official—Any authorized agency official.

Center—The entity established or operated by the grantee for rural cooperative development.

Cooperative—A user-owned and controlled business from which benefits are derived and distributed equitably on the basis of use.

Cooperative development—The startup, expansion, or operational improvement of a cooperative to promote development in rural areas of services and products, processes that can be used in the production of products, or enterprises that can add value to on-farm production through processing or marketing activities. Development activities may include, but are not limited to, technical assistance, research services, educational services, and advisory services. Operational improvement includes making the cooperative more efficient or better managed.

Economic development—The growth of an area as evidenced by increases in total income, employment opportunities, decreased outmigration of populations, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

7 CFR Ch. XLII (1–1–03 Edition)

Nonprofit institution—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Project—A planned undertaking by a center which utilizes the funds provided to it to promote economic development in rural areas through the creation and enhancement of cooperatives.

Public body—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

RBS—The Rural Business-Cooperative Service, an agency of the United States Department of Agriculture, or a successor agency.

Regionally operated—A regionally operated program includes programs that cover or are eligible to cover two or more counties.

Rural and rural area—Includes all territory of a state that is not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas.

Rural Development—Rural Development mission area.

Servicing office—Any Rural Development State Office.

State—Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subcenter—A unit of a center acting under the same direction as and having a purpose consistent with that of the center.

Urbanized area—An area immediately adjacent to a city having a population of 50,000 or more with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States which, for general social and

RBS and RUS, USDA

§4284.516

economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated to extend from the contiguous boundaries to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city, but are located across a river from such city, are recognized as a separate community.

Urbanizing area—A community with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States, which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered “separate” when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall not be considered as an area to determine if a community is separate. A community is considered “independent” when its social (*e.g.*, government, educational, health, and recreational facilities) and economic structure (*e.g.*, business, industry, tax base, and employment opportunities) are not primarily dependent on the city and its immediately adjacent urbanized areas.

§4284.505 Applicant eligibility.

(a) Grants may be made to nonprofit corporations and institutions of higher education. Grants may not be made to public bodies.

(b) An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive

any grant or loan until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment.

§§4284.506–4284.514 [Reserved]

§4284.515 Grant purposes.

Grant funds may be used to pay up to 75 percent of the costs for carrying out relevant projects. Applicant’s contribution may be in cash or in-kind contribution in accordance with parts 3015 and 3019 of this title and must be from nonfederal funds except that a loan from another federal source can be used for the applicant’s contribution. Grant funds may be used for, but are not limited to, the following purposes:

(a) Applied research, feasibility, environmental and other studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center for the purpose of cooperative development.

(b) Collection, interpretation, and dissemination of principles, facts, technical knowledge, or other information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center for the purpose of cooperative development.

(c) Providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center for the purpose of cooperative development.

(d) Providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center for the purpose of cooperative development in accordance with this subpart.

(e) Providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center for the purpose of cooperative development.

§4284.516 Ineligible grant purposes.

Grant funds may not be used to:

(a) Pay more than 75 percent of relevant project or administrative costs;

(b) Duplicate current services or replace or substitute support previously provided;

(c) Pay costs of preparing the grant application package;

(d) Pay costs incurred prior to the effective date of the grant;

(e) Pay for building construction, the purchase of real estate or vehicles, improving or renovating office space, or the repair or maintenance of privately-owned property;

(f) Fund political activities; or

(g) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§§ 4284.517–4284.526 [Reserved]

§ 4284.527 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin as outlined in part 1901, subpart E of this title. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; the requirements of the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability by private entities in places of public accommodations.

(b) *Environmental requirements—(1) General applicability.* Unless specifically modified by this section, the requirements of part 1940, subpart G of this title apply to this subpart. For example, the Agency's general and specific environmental policies contained in §§ 1940.303 and 1940.304 of this title must be complied with. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environ-

mental resources of rural areas such as important farmland and forest lands, prime rangelands, wetland, and flood plains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely impact on the environment.

(2) *Technical assistance.* An application for a project exclusively involving technical assistance is generally excluded from the environmental review process by § 1940.310(e)(1) of this title. However, as further specified in § 1940.333 of this title, the grantee of a technical assistance grant, in the process of providing technical assistance, must consider and generally document within their plans the potential environmental impacts of the plan and recommendations provided to the recipient of the technical assistance.

(3) *Applications for grants to provide other than technical assistance to third-party recipients.* As part of the preapplication, the applicant must provide a complete "Request for Environmental Information," for each project specifically identified in its plan to provide other than technical assistance to third parties who will undertake eligible projects with such assistance. The Agency will review the preapplication, supporting materials, and the required "Request for Environmental Information" and assess the impact of the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects that can be identified at this time from the information submitted. Because the Agency's approval of this type of grant application does not constitute a commitment to the use of grant funds for any identified third-party projects (see § 4284.541), no public notification requirements will apply to the preapplication. After the grant is approved, each third-party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in part 1940, subpart G of this title prior to the Agency providing its consent to the grantee to assist the

third-party project. If the preapplication reflects only one project which is specifically identified as the third-party recipient for financial assistance, the Agency may proceed directly to the appropriate environmental assessment for the third-party recipient with public notification as required. The applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements.

(c) *Government-wide debarment and suspension (non-procurement) and requirements for drug-free workplace.* Persons who are disbarred or suspended are excluded from federal assistance and benefits including grants under this subpart. Grantees must certify that they will provide a drug-free workplace.

(d) *Restrictions on lobbying.* All grants must comply with the lobbying restrictions contained in part 3018 of this title.

(e) *Excess capacity or transfer of employment.* If a proposed project has financial assistance from all sources for more than \$1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide written support for an Agency determination that the proposal will not result in a project which is calculated to, or likely to, result in the transfer of any employment or business activity from one area to another. This limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations.

(f) *Management assistance.* Grant recipients will be supervised, as necessary, to ensure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to, parts 3015, 3017, 3019, and 3051 of this

title, as appropriate, and established RBS guidelines.

(g) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* All projects must comply with the requirements contained in part 21 of this title.

(h) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, flood or mudslide insurance must be obtained through the National Flood Insurance Program.

(i) *Termination of federal requirements.* Once the grantee has provided assistance with project loans in an amount equal to the grant provided by RBS, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the RCDG funds. Such new projects shall not be considered as being derived from federal funds. The purposes of such new projects, however, shall be consistent with these regulations.

(j) *Intergovernmental review.* Grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. A loan fund established in whole, or in part, with grant funds will also be considered a project for the purpose of intergovernmental review as well as the specific projects funded with grant funds from the RCDG funds. For each project to be assisted with a grant under this subpart and which the state has elected to review under their intergovernmental review process, the state point of contact must be notified. Notification, in the form of a project description, can be initiated by the grantee. Any comments from the state must be included with the grantee's request to use RBS grant funds for the specific project. Prior to the RBS decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be completed in accordance with "Intergovernmental Review of Department of Agriculture Programs and Activities," part 3015, subpart V of this title.

§4284.528 Application processing.

(a) *Preapplications.* (1) Applicants will file an original and one copy of an

“Application for Federal Assistance (For Non-construction),” with the appropriate Rural Development State Office.

(2) All preapplications shall be accompanied by:

(i) Evidence of applicant’s legal existence and authority to perform the proposed activities under the grant.

(ii) The latest financial information to show the applicant’s financial capacity to carry out the project. At a minimum, the information should include a balance sheet and an income statement. A current audited report is preferred where one is reasonably obtainable.

(iii) An estimated breakdown of total costs, including costs to be funded by the applicant or other identified sources. Certification must be provided from the applicant that its matching share to the project is available and will be used for the project. The matching share must meet the requirements of parts 3015 and 3019 of this title as applicable. Certifications from an authorized representative of each source of funds must be provided indicating that funds are available and will be used for the proposed project.

(iv) A budget and description of the accounting system to be used.

(v) The area to be served, identifying within that area each governmental unit (*i.e.*, town, county, etc.) affected by the proposed project. Evidence of support and concurrence from each affected governmental unit must be provided by either a resolution or a written statement from the chief elected local official.

(vi) A listing of cooperative businesses to be assisted or created.

(vii) Applicant’s experience with similar projects, including experience of key staff members and persons who will be providing the proposed services and managing the project.

(viii) The number of months duration of the project and the estimated time it will take from grant approval to beginning of service.

(ix) The method and rationale used to select the areas or businesses that will receive the service.

(x) A brief description of how the work will be performed and whether or-

ganizational staff, consultants or contractors will be used.

(xi) An evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished.

(xii) A brief plan that contains the following provisions and describes how the applicant will meet these provisions:

(A) A provision that substantiates how the applicant will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the applicant will be to improve the economic condition of rural areas by promoting development of new cooperatives or improvement of existing cooperatives.

(C) Supporting data from established official independent sources along with any explanatory documentation.

(D) A description of the activities that the applicant will carry out to accomplish such objective.

(E) A description of the proposed activities to be funded under this subpart.

(F) A description of the contributions that the applicant’s proposed activities are likely to make to the improvement of the economic conditions of the rural areas served by the applicant.

(G) Provisions that the applicant, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the federal, state, and local governments.

(H) Provisions that the applicant will consult with any college or university administering Extension Service programs and cooperate with such college or university in the coordination of the center’s activities and programs.

(I) Provisions that the applicant will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(J) Provisions for:

(1) Monitoring and evaluating its activities; and

(2) Accounting for money received and expended by the applicant under this subpart.

(K) Provisions that the applicant will provide for the optimal application of

RBS and RUS, USDA

§ 4284.540

cooperative development in rural areas, especially those areas adversely affected by economic conditions, such that local economic conditions can be improved through cooperative development.

(xiii) The agreement proposed to be used between the applicant and the ultimate recipients, if grant funds are to be used for the purpose of making loans or grants to individuals, cooperatives, small businesses, and other similar entities (ultimate recipients) in rural areas for eligible purposes under this subpart. This agreement should include the following:

(A) An assurance that the responsibilities of the grantee, as a recipient of grant funds under this subpart, are passed on to the ultimate recipient and the ultimate recipient understands its responsibilities to comply with the requirements contained in this subpart and parts 3015 and 3019 of this title, as applicable.

(B) Provisions that the ultimate recipient will comply with debarment and suspension requirements contained in part 3017 of this title and will execute a "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions."

(C) Provisions that the ultimate recipient will execute an "Equal Opportunity Agreement," and an "Assurance Agreement."

(D) Documentation that the ultimate recipient understands its responsibilities to the applicant.

(E) Documentation that the applicant understands its responsibilities in monitoring the ultimate recipient's activities under the grant and the applicant's plan for such monitoring.

(F) Documentation, when other references or sources of information are used, along with copies, if possible, that provides dates, addresses, page numbers and explanations of how interpretations are made to substantiate that such things as economically distressed conditions do exist.

(G) Narrative addressing all items in §4284.540(a) of this subpart regarding grant selection criteria.

(b) *Applications.* Upon notification that the applicant has been selected for funding, the following will be sub-

mitted to Rural Development by the applicant:

(1) Proposed scope of work, detailing the proposed activities to be accomplished and timeframes for completion of each activity.

(2) Other information requested by RBS to make a grant award determination.

(c) *Applicant response.* If the applicant fails to submit the application and related material by the date shown on the invitation for applications, Rural Development may discontinue consideration of the preapplication.

§§ 4284.529–4284.539 [Reserved]

§ 4284.540 Grant selection criteria.

Grants will be awarded under this subpart on a competitive basis. The priorities described in this paragraph will be used by RBS to rate preapplications. RBS review of preapplications will include the complete preapplication package submitted to the Rural Development State Office. Points will be distributed according to ranking as compared with other preapplications on hand. All factors will receive equal weight with points awarded to each factor on a 5, 4, 3, 2, 1 basis depending on the applicant's ranking compared to other applicants.

(a) Preference will be given to applications that:

(1) Demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

(2) Demonstrate previous expertise in providing technical assistance in rural areas;

(3) Demonstrate the ability to assist in the retention of business, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

(4) Demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

(5) Commit to providing technical assistance and other services to underserved and economically distressed rural areas of the United States;

(6) Commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions;

(7) Evidence transferability or demonstration value to assist rural areas outside of project area; and

(8) Demonstrate that any cooperative development activity is consistent with positive environmental stewardship.

(b) Each preapplication for assistance will be carefully reviewed in accordance with the priorities established in this section. A priority rating will be assigned to each preapplication. Preapplications selected for funding will be based on the priority rating assigned each preapplication and the total funds available. All preapplications submitted for funding should contain sufficient information to permit RBS to complete a thorough priority rating.

§ 4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.

The grantee will execute all documents required by RBS to make a grant under this subpart. By accepting the grant, the grantee agrees to comply with parts 3015 and 3019 of this title.

§§ 4284.542–4284.556 [Reserved]

§ 4284.557 Fund disbursement.

Grants will be disbursed as follows:

(a) A “Request for Advance or Reimbursement,” will be completed by the applicant and submitted to Rural Development not more frequently than monthly. Payments will be made by electronic funds transfer pursuant to the Debt Collection Improvement Act of 1996 (Pub. L. 104-134).

(b) The grantee’s share in the cost of the project will be disbursed in advance of grant funds or on a pro-rata distribution basis with grant funds during the disbursement period.

§ 4284.558 Reporting.

A “Financial Status Report,” and a project performance activity report will be required of all grantees on a quarterly calendar basis. A final project performance report will be required with the last “Financial Status Report.” The final report may serve as the last quarterly report. The final report must include a final evaluation of the project. Grantees must constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to Rural Development. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives (if any) were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§§ 4284.559–4284.570 [Reserved]

§ 4284.571 Audit requirements.

The grantee will provide an audit report in accordance with §1942.17 of this title. Audits must be prepared in accordance with general accounting principles and standards using the publication, “Standards for Audit of Governmental Organizations, Programs, Activities and Functions.”

§ 4284.572 Grant servicing.

Grants will be serviced in accordance with part 1951, subpart E of this title.

§ 4284.573 Programmatic changes.

The grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of

RBS and RUS, USDA

§ 4284.603

changes to the scope or budget can result in suspension or termination of grant funds.

§ 4284.574 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements contained in this subpart. Cooperative development projects receiving assistance under this program will be evaluated one year after assistance is received. If it is determined to be in the best interests of the program, preference may be given to a project or projects for an additional grant in the immediately succeeding year.

§ 4284.575 Grant suspension, termination, and cancellation.

Grants may be canceled by RBS by written notice. Grants may be suspended or terminated for cause or convenience in accordance with parts 3015 and 3019 of this title, as applicable.

§§ 4284.576–4284.586 [Reserved]

§ 4284.587 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart, if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest.

§§ 4284.588–4284.599 [Reserved]

§ 4284.600 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0006. You are not required to respond to this collection of information unless it displays a valid OMB control number.

Subpart G—Rural Business Opportunity Grants

SOURCE: 64 FR 71986, Dec. 23, 1999, unless otherwise noted.

§ 4284.601 Purpose.

This subpart outlines Agency policies and authorizations and sets forth procedures for making grants to provide

technical assistance for business development and conduct economic development planning in rural areas. The purpose of this program is to promote sustainable economic development in rural communities with exceptional needs by:

(a) Promoting economic development that is sustainable over the long term through local effort without subsidies or external support and that leads to improvements in quality as well as the quantity of economic activity in the community;

(b) Catalyzing economic development projects by providing critical investments that enable effective development projects to be undertaken by rural communities that, with the Rural Business Opportunity Grants (RBOG) assistance, will be able to identify their needs and take full advantage of available resources and opportunities;

(c) Focusing assistance on priority communities (defined in § 4284.603); and

(d) Sponsoring economic development activities with significant potential to serve as examples of “best practices” that merit implementation in rural communities in similar circumstances.

§ 4284.602 Policy.

(a) The grant program will be used to assist in the economic development of rural areas.

(b) Funds allocated for use in accordance with this subpart are also to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity, along with other rural residents, to participate in the benefits of these programs.

§ 4284.603 Definitions.

Agency. The Federal agency within the United States Department of Agriculture (USDA) with responsibility assigned by the Secretary of Agriculture to administer the RBOG Program. At the time of publication, that agency is the Rural Business-Cooperative Service.

Best practice project. An action that has potential applicability in other

rural communities and which potentially has instructional value when shared with those communities.

Business support centers. Centers established to provide assistance to businesses in such areas as counseling, business planning, training, management assistance, marketing information, and locating financing for business operations. The centers need not be located in a rural area, but must provide assistance to businesses located in rural areas.

Economic development. The industrial, business and financial augmentation of an area as evidenced by increases in total income, employment opportunities, value of production, duration of employment, or diversification of industry, reduced outmigration, higher labor force participation rates or wage levels, or gains in other measurements of economic activity, such as land values.

Long-term. The period of time covered by the three most recent decennial censuses of the United States to the present.

Planning. A process to coordinate economic development activities, develop guides for action, or otherwise assist local community leaders in the economic development of rural areas.

Priority communities. Communities targeted for Agency assistance as determined by the USDA Under Secretary for Rural Development. Priority communities are those that are experiencing trauma due to natural disasters or are undertaking or completing fundamental structural changes, have remained persistently poor, or have experienced long-term population decline or job deterioration.

Project. The result of the use of grant funds provided under this subpart through technical assistance or planning relating to the economic development of a rural area.

Rural and rural area. Any area other than a city or town that has a population of greater than 50,000 inhabitants including the urbanized area contiguous and adjacent to such a city or town. The population figure used must be in accordance with the latest decennial census of the United States.

State. Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin

Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Sustainable development. Development planned and designed to consider and balance environmental quality, economic needs, and social concerns.

Technical assistance. A nonconstruction, problem solving activity performed for the benefit of a business or community to assist in the economic development of a rural area. The Agency will determine whether a specific activity qualifies as technical assistance.

United States. The 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

[64 FR 71986, Dec. 23, 1999, as amended at 67 FR 63538, Oct. 15, 2002]

§§ 4287.604–4287.619 [Reserved]

§ 4284.620 Applicant eligibility.

(a) Grants may be made to public bodies, nonprofit corporations, Indian tribes on Federal or State reservations and other Federally recognized tribal groups, and cooperatives with members that are primarily rural residents and that conduct activities for the mutual benefit of the members.

(b) Applicants must have sufficient financial strength and expertise in activities proposed in the application to ensure accomplishment of the described activities and objectives.

(1) Financial strength will be analyzed by the Agency based on financial data provided in the application. The analysis will consider the applicant's tangible net worth, which must be positive, and whether the applicant has dependable sources of revenue or a successful history of raising revenue sufficient to meet cash requirements.

(2) Expertise will be analyzed by the Agency based on the applicant staff's training and experience in activities

RBS and RUS, USDA

§ 4284.629

similar to those proposed in the application and, if consultants will be used, on the staff's experience in choosing and supervising consultants.

(c) Any delinquent debt to the Federal Government shall cause the applicant to be ineligible to receive any RBOG funds until the debt has been paid.

§ 4284.621 Eligible grant purposes.

(a) Grant funds may be used to assist in the economic development of rural areas by providing technical assistance for business development and economic development planning. Grant funds may be used for, but are not limited to, the following purposes:

(1) Identify and analyze business opportunities that will use local rural materials or human resources. This includes opportunities in export markets, as well as feasibility and business plan studies.

(2) Identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

(3) Establish business support centers and otherwise assist in the creation of new rural businesses;

(4) Conduct local community or multi-county economic development planning;

(5) Establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets;

(6) Conduct leadership development training of existing or prospective rural entrepreneurs and managers; or

(7) Pay reasonable fees and charges for professional services necessary to conduct the technical assistance, training, or planning functions.

(b) Grants may be made only when there is a reasonable prospect that the project will result in the economic development of a rural area.

(c) Grants may be made only when the proposal includes a basis for determining the success or failure of the project and individual major elements of the project and outlines procedures that will be taken to assess the project's impact at its conclusion.

(d) Grants may be made only when the proposed project is consistent with

local and area-wide strategic plans for community and economic development, coordinated with other economic development activities in the project area and consistent with any USDA Rural Development State Strategic Plan.

(e) A grant may be considered for the amount needed to assist with the completion of a proposed project, provided that the project can reasonably be expected to be completed within 2 full years after it is begun. If grant funds are requested to establish or assist with an activity of more than 2 years duration, the amount of a grant approved in any fiscal year will be limited to the amount needed to assist with no more than 1 full year of operation. Subsequent grant requests may be considered in subsequent years, if needed to continue the operation, but funding for 1 year provides no assurance of additional funding in subsequent years.

§§ 4284.622–4287.628 [Reserved]

§ 4284.629 Ineligible grant purposes.

Grant funds may not be used to:

(a) Duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond what is currently being provided;

(b) Pay costs of preparing the application package for funding under this program;

(c) Pay costs of the project incurred prior to the effective date of the grant made under this subpart;

(d) Fund political activities;

(e) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

(f) Pay any judgment or debt owed to the United States; or

(g) Pay costs of real estate acquisition or development or building construction.

§ 4284.630 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to title VI of the Civil Rights Act of 1964 and part 1901, subpart E of this title.

(b) *Environmental review.* All grants made under this subpart are subject to the requirements of subpart G of part 1940 of this title. Applications for technical assistance or planning projects are generally excluded from the environmental review process by § 1940.333 of this title provided the assistance is not related to the development of a specific site. Applicants for grant funds must consider and document within their plans the important environmental factors within the planning area and the potential environmental impacts of the plan on the planning area, as well as the alternative planning strategies that were reviewed.

(c) *Other USDA regulations.* This program is subject to the provisions of the following regulations, as applicable;

(1) 7 CFR part 3015, Uniform Federal Assistance Regulations;

(2) 7 CFR part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(3) 7 CFR part 3017, Governmentwide Debarment and Suspension (Non-procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(4) 7 CFR part 3018, New Restrictions on Lobbying;

(5) 7 CFR part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

(6) 7 CFR part 3052, Audits of States, Local Governments, and Non-profit Organizations.

§§ 4284.631–4284.637 [Reserved]

§ 4284.638 Application processing.

(a) *Applications.* (1) Applicants will file an original and one copy of “Application For Federal Assistance (For Nonconstruction),” with the Agency State Office (available in any Agency office).

(2) All applications shall be accompanied by:

(i) Copies of applicant’s organizational documents showing the applicant’s legal existence and authority to perform the activities under the grant;

(ii) A proposed scope of work, including a description of the proposed project, details of the proposed activities to be accomplished and timeframes for completion of each task, the number of months duration of the project, and the estimated time it will take from grant approval to beginning of project implementation;

(iii) A written narrative which includes, at a minimum, the following items:

(A) An explanation of why the project is needed, the benefits of the proposed project, and how the project meets the grant selection criteria;

(B) Area to be served, identifying each governmental unit, i.e., town, county, etc., to be affected by the project;

(C) Description of how the project will coordinate economic development activities with other economic development activities within the project area;

(D) Business to be assisted, if appropriate; economic development to be accomplished;

(E) An explanation of how the proposed project will result in increased or saved jobs in the area and the number of projected new and saved jobs;

(F) Description of the applicant’s demonstrated capability and experience in providing the proposed project assistance or similar economic development activities, including experience of key staff members and persons who will be providing the proposed project activities and managing the project;

(G) Method and rationale used to select the areas and businesses that will receive the service;

(H) Brief description of how the work will be performed including whether organizational staff or consultants or contractors will be used; and

(I) Other information the Agency may request to assist it in making a grant award determination.

(iv) The latest financial information to show the organization’s financial capacity to carry out the proposed work. At a minimum, the information should include the most recent balance sheet

and an income statement. A current audited report is required if available;

(v) An evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished; and

(vi) Intergovernmental review comments from the State Single Point of Contact, or evidence that the State has elected not to review the program under Executive Order 12372.

(b) *Letter of conditions.* The Agency will notify the approved applicant in writing, setting out the conditions under which the grant will be made.

(c) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return a "Letter of Intent to Meet Conditions," to the Agency; or if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

§ 4284.639 Grant selection criteria.

Agency officials will select projects to receive assistance under this program according to the following criteria:

(a) A score of 0 to 10 points will be awarded based on the Agency assessment of the extent to which economic development resulting from the proposed project will be sustainable over the long term by local efforts, without the need for continued subsidies by governments or other organizations outside the community.

(b) A score of 0 to 10 points will be awarded based on the Agency assessment of the extent to which the project should lead to improvements in the quality of economic activity within the community, such as higher wages, improved benefits, greater career potential, and the use of higher levels of skills than currently are typical within the economy.

(c) If the grant will fund a critical element of a larger program of economic development, without which the overall program either could not proceed or would be far less effective, or if the program to be assisted by the grant

will also be partially funded from other sources, points will be awarded as follows based on the percentage of the cost of the overall program that will be funded by the grant.

(1) Less than 20 percent—30 points;

(2) 20 but less than 50 percent—20 points;

(3) 50 but less than 75 percent—10 points; or

(4) More than 75 percent—0 points.

(d) Points will be awarded for each of the following criteria met by the community or communities that will receive the primary benefit of the grant. However, regardless of the mathematical total of points indicated by paragraphs (d)(1) through (d)(5) of this section, total points awarded under paragraph (d) must not exceed 40.

(1) Experiencing trauma due to a major natural disaster that occurred not more than 3 years prior to the filing of the application for RBOG assistance—15 points;

(2) Undergoing fundamental structural change in the local economy, such as that caused by the closing or major downsizing of a military facility or other major employer not more than 3 years prior to the filing of the application for RBOG assistance—15 points;

(3) Has experienced long-term poverty—10 points;

(4) Has experienced long-term population decline—10 points; and

(5) Has experienced long-term job deterioration—10 points.

(e) A score of 0 to 10 points will be awarded based on the Agency determination of the extent of the project's usefulness as a new best practice as defined in § 4284.603.

(f) The State Director may assign up to 15 discretionary points to an application. If allocation of funds under National Office control is being considered, the Agency Administrator may assign up to 20 additional discretionary points. Assignment of discretionary points by either the State Director or the Agency Administrator must include a written justification. Permissible justifications are geographic distribution of funds, special importance for implementation of a strategic plan in partnership with other organizations, or extraordinary potential for

§ 4284.640

success due to superior project plans or qualifications of the grantee.

§ 4284.640 Appeals.

Any appealable adverse decision made by the Agency may be appealed in accordance with USDA appeal regulations found at 7 CFR part 11. If the Agency makes a determination that a decision is not appealable, a request for a determination of appealability may be made to the National Appeals Staff.

§§ 4284.641–4287.646 [Reserved]

§ 4284.647 Grant approval and obligation of funds.

(a) The following statement will be entered in the comment section of the Request For Obligation of Funds, which must be signed by the grantee:

The grantee certifies that it is in compliance with and will continue to comply with all applicable laws; regulations; Executive Orders; and other generally applicable requirements, including those contained in 7 CFR part 4284, subpart G, and 7 CFR parts 3015, 3016, 3017, 3018, 3019, and 3052 in effect on the date of grant approval; and the approved Letter of Conditions.

(b) [Reserved]

§ 4284.648 Fund disbursement.

The Agency will determine, based on 7 CFR parts 3015, 3016, and 3019, as applicable, whether disbursement of a grant will be by advance or reimbursement. A Request for Advance or Reimbursement, (available in any Agency office) must be completed by the grantee and submitted to the Agency no more often than monthly to request either advance or reimbursement of funds.

§§ 4284.649–4284.655 [Reserved]

§ 4284.656 Reporting.

(a) A Financial Status Report (available in any Agency office) and a project performance activity report will be required of all grantees on a quarterly basis. The grantee will cause said program to be completed within the total sums available to it, including the grant, in accordance with the scope of work and any necessary modifications thereof prepared by grantee and approved by the Agency. A final project

7 CFR Ch. XLII (1–1–03 Edition)

performance report will be required with the final Financial Status Report. The final report may serve as the last quarterly report. The final report must provide complete information regarding the jobs created and saved as a result of the grant. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to the Agency. The project performance reports shall include, but not be limited to, the following:

(1) A comparison of actual accomplishments to the objectives established for that period;

(2) Problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(3) Objectives and timetable established for the next reporting period.

(b) Within 1 year after the conclusion of the project, the grantee will provide a project evaluation report based on criteria developed in accordance with §§ 4284.621(c) and 4284.638(a)(2)(v).

(c) The Agency may also require grantees to prepare a report suitable for public distribution describing the accomplishments made through the use of the grant and, in the case where the grant funded the development or application of a “best practice,” to describe that “best practice.”

(d) The grantee will provide for Financial Management Systems which will include:

(1) Accurate, current, and complete disclosure of the financial result of each grant.

(2) Records which identify adequately the source and application of funds for grant-supporting activities, together with documentation to support the records. Those records shall contain information pertaining to grant awards

and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(3) Effective control over and accountability for all funds. Grantee shall adequately safeguard all such assets and shall assure that funds are used solely for authorized purposes.

(e) The grantee will retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved or if directed by the United States. Microfilm copies may be substituted in lieu of original records. The Agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which are pertinent to the specific grant program for the purpose of making audit, examination, excerpts, and transcripts.

§ 4284.657 Audit requirements.

Grantees must provide an annual audit in accordance with 7 CFR part 3052. The audit requirements apply to the years in which grant funds are received and years in which work is accomplished that will be paid for with grant funds.

§§ 4284.658–4284.666 [Reserved]

§ 4284.667 Grant servicing.

Grants will be serviced in accordance with part 1951, subparts E and O, of this title. Grantees will permit periodic inspection of the program operations by a representative of the Agency. All non-confidential information resulting from the Grantee's activities shall be made available to the general public on an equal basis.

§ 4284.668 Programmatic changes.

The Grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, and recovery of grant funds.

§§ 4284.669–4284.683 [Reserved]

§ 4284.684 Exception authority.

The Administrator may, in individual cases, grant an exception to any requirement or provision of this subpart provided the Administrator determines that application of the requirement or provision would adversely affect USDA's interest.

§§ 4284.685–4284.698 [Reserved]

§ 4284.699 Member delegate clause.

No member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

§ 4284.700 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0570-0024 in accordance with the Paperwork Reduction Act of 1995. You are not required to respond to this collection of information unless it displays a valid OMB control number.

PART 4285—COOPERATIVE AGREEMENTS

Subpart A—Federal-State Research on Cooperatives Program

Sec.

4285.1 Objective.

4285.2 Cooperative agreement purposes.

4285.3 Definitions.

4285.4–4285.23 [Reserved]

4285.24 Eligibility.

4285.25 Authorized use of cooperative agreement funds.

4285.26–4285.45 [Reserved]

4285.46 Prohibited use of cooperative agreement funds.

4285.47 Limitations.

4285.48–4285.57 [Reserved]

4285.58 How to apply for cooperative agreement funds.

4285.59–4285.68 [Reserved]

4285.69 Evaluation and disposition of applications.

4285.70 Evaluation criteria.